

Exhibit F

Perry Lerner – September 16, 2020

Page 1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 Master docket No. 18-MD-2865 (LAK)
4 Case Nos. 18-cv-09505

5 IN RE:)
6)
7 CUSTOMS AND TAX ADMINISTRATION OF)
8 THE KINGDOM OF DENMARK (SKATTEFOR)
9 VALTNINGEN) TAX REFUND SCHEME)
10 LITIGATION,)
11))
12))
13))
14 REMOTE VTC VIDEOTAPED DEPOSITION UNDER ORAL
15 EXAMINATION OF
16 PERRY LERNER
17 DATE: September 16, 2020
18
19
20
21
22
23
24
25 REPORTED BY: MICHAEL FRIEDMAN, CCR

Perry Lerner – September 16, 2020

Page 12

1 THE VIDEOGRAPHER: This is the
2 remote video recorded deposition of
3 Perry Lerner. Today is Wednesday,
4 September 16, 2020. The time is now
5 9:42 a.m. in the Eastern time zone.

6 We are here in the matter of In Re
7 Customs and Tax Administration of the
8 Kingdom of Denmark et al. All counsel
9 have been noted on record.

10 My name is Jose Rivera, remote
11 video technician on behalf of Gregory
12 Edwards LLC. At this time, will the
13 reporter, Michael Friedman, on behalf of
14 Gregory Edwards LLC, please swear in the
15 witness.

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

Perry Lerner – September 16, 2020

Page 13

1 MR. WEINSTEIN: I think Mr. Lerner
2 got frozen during the oath.

3 THE VIDEOGRAPHER: Stand by. The
4 time is 9:43 a.m. and we're going off
5 the record.

6 (Whereupon a discussion was held
7 off the record.)

8 THE VIDEOGRAPHER: Stand by. The
9 time is 9:51 a.m. and we're back on
10 record.

11

12

13 P E R R Y L E R N E R ,

14 called as a witness, having been first
15 duly sworn according to law, testifies as follows:

16

17

18

19 EXAMINATION BY MR. WEINSTEIN:

20 Q Good morning, Mr. Lerner. After a
21 stumbling start by all here, we'll get going.
22 I introduced myself earlier. I'm Mark
23 Weinstein from Hughes, Hubbard & Reed. We
24 are counsel to plaintiff SKAT in these
25 actions.

Perry Lerner – September 16, 2020

Page 54

1 discussing that at all.

2 Q Did he discuss why the trading was
3 done in Europe?

4 A No.

5 Q Did he identify any particular
6 countries in which the trading was done?

7 A No.

8 Q Did he explain why there was a need
9 for pension plans to be part of the trading?

10 A No.

11 Q After this initial conversation,
12 what happened next in connection with this
13 trading, as far as you understood?

14 MS. RICE: Objection.

15 A Could you be more specific in your
16 question? I mean --

17 Q Fair enough.

18 A -- what do you mean?

19 Q Sure.

20 During the initial conversation
21 with Mr. Van Merkensteijn, did he tell you
22 you would have to take any particular steps
23 to make this trading happen?

24 A No. What he said was he would
25 arrange a meeting with Kaye Scholer,

Perry Lerner – September 16, 2020

Page 55

1 Kaye Scholer would represent me and him if it
2 went forward, and that they would take care
3 of all of the mechanics or whatever you want
4 to call it in terms of doing it.

5 So maybe this gets back to your
6 earlier question. At some point after
7 talking to John about it, at some point
8 later, we did meet at Kaye Scholer. I
9 frankly can't remember how long.

10 My impression is that it was
11 probably a few months later rather than the
12 next day. I could be wrong, but I do know
13 that I do have a recollection of meeting with
14 them to discuss this, you know, sometime
15 after that initial conversation.

16 Q Okay. So there came a time where
17 you did have a meeting at Kaye Scholer?

18 A Yes.

19 Q Between the initial conversation
20 with Mr. Van Merkenstein and the meeting at
21 Kaye Scholer, did you have any further
22 discussions with anybody else about this
23 trading strategy?

24 A No.

25 Q Did you do anything personally to

Perry Lerner – September 16, 2020

Page 86

1 A Not that I know of.

2 Q What was your role, if any, with
3 Loggerhead Services LLC?

4 A As I understand it, it was part of
5 the transactions. So it was a company which
6 was the sponsor of the pension plans that you
7 mentioned earlier.

8 Q Okay. Did you conduct any business
9 through the Loggerhead Services LLC company?

10 A No.

11 Q At the time it was set up, did you
12 intend to conduct any business through that
13 LLC?

14 A No. The answer is no. If I was
15 asked to do something, I don't recall being
16 asked to do any business through this entity.

17 Q Okay. And as far as you knew at
18 the time it was set up, was the entity going
19 to generate any business income?

20 A I didn't know.

21 Q It says that the date of formation
22 is June 16, 2014.

23 Do you know if that's close in time
24 to the first meeting you had at
25 Kaye Scholer's offices?

Perry Lerner – September 16, 2020

Page 87

1 A Yeah, I think it's approximately in
2 that time period, yes.

3 Q Okay.

4 A I -- yeah, I think that's probably
5 accurate.

6 Q Are you familiar with Vcorp
7 Services, the entity which seems to have
8 formed the LLC?

9 A No.

10 Q And did you ever communicate with
11 Vcorp?

12 A No.

13 Q And to the extent that there were
14 any costs associated with setting up this or
15 any other LLCs through Vcorp, did you have to
16 bear those costs?

17 A I don't remember any direct payment
18 in respect of those costs.

19 Q Okay. Do you know who did pay
20 those costs?

21 A No, I don't.

22 Q All right. Can you turn to
23 Exhibit 574?

24 MR. WEINSTEIN: Mark this as 574.
25 (Whereupon the above mentioned was

Perry Lerner – September 16, 2020

Page 88

1 marked for Identification.)

2 Q Exhibit 574 is a management
3 resolution of Loggerhead Services LLC.

4 And do you see that it says that
5 there was a general meeting of the member and
6 the organizer of the company on June 18,
7 2014?

8 A (Witness reviewing.)

9 Yes, I see it.

10 Q Did you attend such a meeting?

11 A No, I didn't.

12 Q Do you know if there was such a
13 meeting?

14 A No, I don't.

15 Q And it later says that it resolves
16 that the company's to be managed by John
17 Van Merkenstijn.

18 Do you see that?

19 A Yes, I do.

20 Q Do you know, was
21 Mr. Van Merkenstijn the sole member of this
22 LLC at all relevant times?

23 MS. RICE: Objection.

24 THE WITNESS: Am I being told not
25 to answer?

Perry Lerner – September 16, 2020

Page 89

1 MS. RICE: No, you can answer.

2 A The answer is I don't know.

3 Q Okay. Do you know if you were ever
4 a member of the LLC?

5 A I believe I was, based on documents
6 that were produced in these proceedings, yes.

7 Q Okay. Other than yourself and
8 Mr. Van Merkensteijn, are you aware of any
9 members of the LLC?

10 A No, I'm not.

11 Q Do you know who selected
12 Mr. Van Merkensteijn to be the member as
13 listed in this document?

14 A No, I don't.

15 Q Do you know why he was selected?

16 A No, I don't.

17 Q Do you know if he was going to be
18 compensated for his role with this LLC?

19 A No, I don't.

20 Q Okay. Can you turn to Exhibit 575?

21 MR. WEINSTEIN: Mark this as 575.

22 (Whereupon the above mentioned was
23 marked for Identification.)

24 Q This is a Certificate of Formation
25 of Eclouge Industry.

Perry Lerner – September 16, 2020

Page 90

1 Did I say that correctly?

2 A I have no idea how to pronounce it.

3 Q We're in the same boat.

4 Did you select the name?

5 A No, I didn't.

6 Q Do you know who did?

7 A No.

8 Q Do you know if it has any
9 particular significance in the context of its
10 formation?

11 A No, I don't.

12 Q Do you know anything more about the
13 formation of this entity than you did about
14 the Loggerhead entity?

15 A No, I don't.

16 Q All right. Well, at the time it
17 was formed, did you intend to use this entity
18 to conduct any business?

19 A No.

20 Q Did you ever use this entity to
21 conduct business?

22 A No.

23 Q Do you know if the entity ever
24 generated any income?

25 A No.

Perry Lerner – September 16, 2020

Page 91

1 Q Is it fair to say that you never
2 received any kind of salary or other payments
3 from this LLC?

4 A No.

5 Q All right. Just so we're clear,
6 because I said "is it fair to say," and you
7 said "no," let me put it a different way.

8 Did you ever receive any salary or
9 other compensation from this LLC for any work
10 you performed for it?

11 A No, I didn't.

12 Q Can you -- well, let me do it maybe
13 as a group. I'm going to ask you to look
14 quickly at Exhibit 576.

15 A I'm sorry. Five --

16 Q 576, 577, and 578.

17 A Okay. Hold on while I look.

18 MR. WEINSTEIN: Mark these three,
19 576, 577 and 578.

20 (Whereupon the above mentioned was
21 marked for Identification.)

22 A (Witness reviewing.)

23 Okay. I've looked at exhibits
24 through 578.

25 Is that as far as you want me to

Perry Lerner – September 16, 2020

Page 92

1 go?

2 Q Yes. And tell me if I'm wrong, but
3 they're essentially the same document,
4 Certificates of Formation, for three
5 different entities, similar to the last two
6 we looked at, formed on the same date,
7 June 16, 2014.

8 Correct?

9 A So it appears.

10 Q Okay. Do you know -- well,
11 First Ascent Worldwide LLC, do you know who
12 selected the name?

13 A No, I don't.

14 Q Do you know if it ever conducted
15 any business?

16 A Not as far as I know.

17 Q And at the time that it was formed,
18 did you have any intention for that entity to
19 conduct business?

20 A No.

21 Q Do you know who selected the name
22 PAB Facilities Global LLC?

23 A No, I don't.

24 Q As far as you know, did that entity
25 ever conduct any business?